ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Equal Access and Interconnection	)	CC Docket No. 94-54
Obligations Pertaining to	)	
Commercial Mobile Radio Services	)	

Comments of AirTouch Communications

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SUMMARY

Equal access for CMRS providers should be defined as the ability of CMRS customers to reach the long distance carrier of their choice. By requiring that such access be available through simple dial around arrangements using carrier access codes (10XXX), customers are well served without the need to adopt rules that restrict market-driven CMRS services. Furthermore, parity among direct competitors requires that cellular carriers be treated no differently than other CMRS licensees in their ability to meet their customers' needs for broad coverage, flexible pricing, and conveniently packaged services.

The adoption of marketing prescriptions that mandate balloting, prohibit service bundling, or otherwise interfere with this highly competitive market will result in reduced competition and higher prices for customers. There is no evidence that customers believe that having "1+" dialing available to any long distance carrier is important or valuable. To the contrary, if customers believed that such "1+" dialing choices were important, then most customers would have chosen to use BOC affiliated cellular carriers (which have been required to provide such options) whenever they compete with non-BOC carriers. That, of course, has not been the case. However, if customers' views change on this subject, then carriers will find that it is in their best economic interest to make such a choice available. With ESMR, PCS and cellular carriers all seeking to attract subscribers with the most responsive packages of lower rates and quality services, the Commission can be assured that customer choice will be respected.

Rapidly changing market developments for the CMRS industry, including mobile data, one-number and mobile satellite services highlight the problems of applying a set of rules developed for fixed wireline services to mobile wireless services. These problems

are especially acute because commercial mobile radio services are inherently designed to be used without regard to geographic boundaries. Imposition of equal access rules on the narrowband CMRS market--which is already completely free from MFJ-imposed equal access today--would create extreme inefficiencies and economic burdens that could adversely affect that thriving market segment.

AirTouch further supports flexibility in interconnection between LECs and CMRS providers because it will result in a greater variety of service offerings and lower prices. LEC interconnection tariffs, on the other hand, would inhibit differentiation in the market and result in less efficient and innovative arrangements than would unrestricted contractual negotiations.

Because each CMRS system has a unique configuration, market strategy, customer profile, and investment policy, interconnection arrangements should be driven by market needs, not designed retrospectively by regulators. By leaving the pace, technical configurations and financial arrangements of such interconnections to the business judgment of CMRS providers, the marketplace will ensure that the most economic and efficient outcome will prevail.

The reseller switch proposal should be rejected. Given the highly competitive and rapidly evolving CMRS marketplace, decisions about interconnection of third party switches should be made by the service provider, who is in the best position to determine the economic and technical impact of specific proposals, subject to the nondiscrimination provisions of the Communications Act. A blanket policy mandating such interconnection would have severe consequences for the integrity of cellular networks and the incentives to invest in new technologies or expanded systems. It could also have an adverse impact on the rapid development of PCS networks.

AirTouch emphasizes that states must be preempted from imposing any CMRS interconnection requirements since the Commission has sole jurisdiction over the nature and scope of such interconnection policies. Inconsistent state rulings will undermine the federal scheme and harm the goal of having a nationwide seamless system. The recent California ruling -- attempting to impose unbundled access by cellular resellers -- demonstrates how inconsistent state decisions have a seriously adverse impact on the nation's cellular system. For example, the California decision would discourage expansion of service and technological advancement by facilities-based cellular carriers while giving resellers an anti-competitive "free ride". Further, the California decision to allow resellers to interconnect additional switches to the existing network at rates regulated by California -- is a blatant violation of Section 332 of the Communications Act and the Commission's preemption of the rates of CMRS interconnection.

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AirTouch Communications ("AirTouch") is filing these comments in response to the Notice of Proposed Rule Making and Notice of Inquiry ("NPRM/NOI") in the above-captioned proceeding.[1]

I. BACKGROUND AND INTRODUCTION

AirTouch, formerly PacTel Corporation, is one of the largest providers of cellular, paging and other wireless services in the United States and throughout the world. AirTouch was spun off from Pacific Telesis Group on April 1, 1994 in a transaction which resulted in the complete separation of the AirTouch wireless businesses from Pacific Telesis Group and its wireline companies. This dramatic move was undertaken to better accommodate the diverse investment strategies of the separated companies, to permit Pacific Telesis' operating companies to pursue PCS licenses in region, and to remove MFJ obligations from the existing wireless operations.

[1] FCC 94-145, adopted on June 9, 1994 and released July 1, 1994.

On July 25, 1994, AirTouch and U.S. West announced an agreement to combine their domestic cellular assets in a multi-phase transaction that is expected to close in the second quarter of 1995. A separate joint venture between U.S. West New Vector and AirTouch has been formed to pursue PCS broadband licenses in the upcoming auctions. These ventures were undertaken to extend the geographic reach and economies of scope and scale needed to provide high quality, technologically advanced mobile services in the rapidly evolving CMRS industry.

In these Comments, AirTouch does not oppose the extension of the equal access principle of customer choice to all cellular carriers or to other CMRS competitors. It does, however, oppose imposition of the cumbersome MFJ-derived definition of equal access, which goes far beyond the concept of customer choice and which was designed to satisfy an entirely different set of public interest concerns. Wholesale adoption of extensive, cumbersome requirements such as "1+" interconnection and balloting of subscribers will result in non-productive processes and duplication of facilities. The highly competitive nature of the CMRS industry requires a lighter, different regulatory approach tailored to better meet the needs of consumers in a competitive environment. More competitors means more choice for consumers; unfettered market dynamics among wireless and long distance companies will result in a plethora of deals, discounts, and service plans to meet the widest possible range of customer needs in the most efficient manner possible. In contrast, unnecessary Commission interference in these market developments will harm the public interest.

Similarly, the pace of growth and change in the CMRS industry requires the Commission to forbear from mandating any interconnection and access requirements among CMRS competitors. The market itself should and will determine the most economic means of bringing the widest range of services to consumers at the lowest

possible cost. Regulatory requirements such as those dictating the unbundling of specific network elements, or prohibiting the bundling of specific services, will destroy competitive incentives to invest in breakthrough technologies, to create synergies with other services, or otherwise to innovate in the development of this fast growing, but still embryonic market.

II. EQUAL ACCESS SHOULD BE DEFINED AS UNBLOCKED ACCESS TO ANY CARRIER OF CHOICE. ADDITIONAL OBLIGATIONS SHOULD NOT BE MANDATED FOR ANY CMRS PROVIDERS.

A. Market forces, not regulatory prescriptions, will best promote the Commission's objectives.

In its Notice of Proposed Rulemaking, the Commission expressed its intention to "increase competition in the interexchange and mobile services market place," and proposes to do so by imposing equal access requirements on cellular carrier service providers.[2] AirTouch strongly supports the Commission's goal of promoting competition by refocusing competitors' efforts away from strategies in the regulatory arena and toward technological innovation, service quality, competitive pricing and responsiveness to consumer needs.[3] However, extension of equal access obligations beyond unblocked 10XXX dialing would be completely counterproductive to this goal.

"Equal access" for mobile services should be defined as the fundamental right of callers to use their long distance carrier of choice. Given the well-established existence of carrier access codes, customers are able to exercise that right without restriction if such codes are unblocked by carriers. The Commission can easily protect customer choice, therefore, by mandating that cellular and other broadband CMRS customers not be

[2] NPRM/NOI at Para. 2.

[3] Id.

blocked from reaching their carrier of choice through carrier access codes. To impose more prescriptive, burdensome, or specific interconnection and access obligations to achieve the benefits of equal access would be expensive, unnecessary and contrary to the Commission's policies.[4]

AirTouch has a unique perspective on this issue. Until April 1, 1994, when AirTouch was spun off from the Pacific Telesis Group, its cellular systems were prohibited by the MFJ from offering long distance service and were required to offer equal access. As of April 1, AirTouch was no longer affiliated with a Bell Operating Company and therefore, is no longer subject to MFJ requirements. Pursuant to that new status, we actively evaluated our customers' interests to determine how best to provide them with long distance calling options at low cost. Our business interests are driven, of course, by the fact that if we don't meet our customers' needs, the competition will.

Extensive surveys, focus groups, and secondary market research led us to conclude that most customers simply want the lowest overall monthly charges possible, wide area coverage, a single bill, and quality connections. The ability to select any long distance carrier generally had little value for most customers. This lack of interest is illustrated by the fact that in a market study of current customers, 25% believed that AirTouch (then PacTel) provided their long distance cellular service even though they had been specifically told that PacTel was prohibited from providing such service and all of AirTouch's customers had individually presubscribed to independent IXCs who separately bill them for their cellular long distance calls. For many others, they had

[4] "[W]e establish, as a principal objective, the goal of ensuring that unwarranted regulatory burdens are not imposed upon any mobile radio licensees who are classified as CMRS providers." CC Docket 93-252, Regulatory Treatment of Mobile Services, Second Report and Order, 9 FCC 1411, 1418. ("Second Report and Order").

forgotten that they had chosen their own long distance carrier or reported that the choice of long distance carriers played no role at all in choosing a cellular carrier.

On the other hand, some customers (although a minority of customers overall) expressed a strong interest in use of a particular long distance carrier for their cellular calls. The reasons given for that interest were as varied as the customers themselves. In some cases, the customers were companies who wanted their employees to use the long distance carrier from whom the company contracted for volume discounts. In other cases, subscribers wanted to consolidate their long distance calls from all of their phones with a single carrier. Regardless of their reasons, these are customers AirTouch does not want to lose.

Based upon this market information, AirTouch plans to voluntarily continue making "1+" access available to any long distance carrier that a customer wants. We are taking this action not because of regulatory requirements, but because of the demands of the marketplace -- a marketplace where customers are free to compare and make rational economic choices among the offerings of cellular competitors, resellers, ESMRs, and imminently, PCS. AirTouch's decision underscores the critical factor relevant to the Commission's determinations: government-defined methods of achieving equal access are wholly unnecessary in the dynamic CMRS marketplace. Consumer choices are and will be available without regulatory intervention.

While AirTouch plans to offer "1+" access to its cellular customers based upon the demands in our markets, it does not follow that such requirements should be mandated for all CMRS carriers in all markets. The critical element to guarantee equal access for CMRS customers is to ensure that customers have access to his or her carrier of choice. Rules governing the commercial relationships between mobile and long

distance carriers should be left to the market. In particular, expensive marketing prescriptions regarding balloting of customers, default allocations, and bundling of services will seriously inhibit innovation, increase prices, inconvenience customers and result in less competition in both the mobile and long distance markets without improving services to the public.

B. There is no justification for imposing separate equal access obligations on cellular carriers in the competitive CMRS market.

Although the Department of Justice originally intended equal access for BOCs to be used to eliminate any disparities in interconnection arrangements between AT&T and other IXCs, its arguments were "predicated on the existence of the BOCs' status as regulated monopoly carriers."[5] The primary focus of the Department of Justice was to target AT&T's position with respect to the BOCs: "[O]ne of the government's principal contentions in the AT&T case was that the Operating Companies provided interconnection to AT&T's intercity competitors which were inferior in many respects to those granted to AT&T's own Long Lines Department...a substantial AT&T bias has been designed into the integrated network, and the network, of course, remains in that condition".[6] As a result, the MFJ included "1+" equal access as a safeguard against AT&T obtaining preferential access to local exchange networks, a condition unique to the AT&T/Bell divestiture and clearly not a factor in the CMRS marketplace.[7]

In contrast to the old AT&T monopoly, the relevant CMRS market is competitive and was built without bias toward a particular long distance carrier. In contrast to local exchange carriers, the Commission has concluded that CMRS providers do not have

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[5] 47 FR 7176, February 17, 1982.

[6] United States v. AT&T, 552 F. Supp. 131, 195 (1982).

[7] Id.

control over bottleneck facilities.[8] The two cellular carriers licensed in each market compete vigorously with each other and with independent resellers at the retail level.[9] Digital technology continues to expanded spectrum capacity, increasing efficiency and accessibility. ESMR services are operational today, offering a viable alternatives to cellular service, combined with dispatch and paging, often with broader coverage areas.[10] Broadband PCS auctions are scheduled to begin this fall, authorizing six new facilities-based competitors in each market. These competitive pressures are evident in the proliferation of innovative cellular service offerings and discounts that have been creating a steady downward pressure on cellular prices.[11]

As the Commission is aware, major telecommunications legislation is currently pending before Congress, with provisions directing the Commission to implement some type of equal access rules for all CMRS providers.[12] With or without such a legislative mandate, the most appropriate equal access rules should be limited to those requiring that CMRS customers be able to route calls to the IXC of their choice through dial-around arrangements, such as 10XXX dialing. 10XXX access preserves subscriber choice without the costs and inefficiencies of more onerous BOC-related equal access

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[8] Second Report and Order, 9 FCC at 1499.

[9] Analyst reports indicate that approximately 2% of subscribers switch service providers each month resulting in annual churn of over 20%. Consumers actively evaluate their options and act upon their choices regarding the various competing cellular services.

[10] Nextel, the largest ESMR provider, has already become operational in California, and will offer nearly nationwide coverage through its mergers with Dial Call and Onecomm. Nextel's digital voice service competes directly with cellular services. See Nextel Prospectus, Feb. 11, 1994.

[11] U.S. v. Western Electric, Civil Action No. 82-0192, Hausman Affidavit filed July 29, 1992.

[12] See HR 3626, The Antitrust and Communications Reform Act of 1994, passed by the House on July 2 by a vote of 423-5. S.1822, The Communications Act of 1994, was voted out of the Committee on Commerce, Science and Transportation, but has yet to be acted upon by the full Senate. Each would require to FCC to impose uniform equal access rules for all CMRS providers, though through different approaches which would have to be resolved in Conference.

requirements.[13] Furthermore, access through 10XXX dialing can be programmed in most handsets today as a single digit speed dialing option which effectively equates it to "1+" dialing.[14] Obligations beyond unblocked access are unnecessary in light of the competitive and rapidly changing state of the industry today.

C. Regulatory parity requires an even hand in applying equal access rules for CMRS providers.

The Commission's proposed decision to apply "1+" equal access obligations on only one segment of the CMRS market directly contradicts the letter and the spirit of the regulatory parity provisions of Section 332 of the Communications.[15] Such action would perpetuate the very problem Congress intended to address: competitive advantages borne of regulatory favor rather than marketing, technological or strategic savvy. Moreover, the Commission's focus upon parity between wireline and wireless is misplaced.[16] Cellular directly competes with ESMR and broadband PCS, not wireline local exchange companies with whom all CMRS providers must interconnect.

The timing of the proposed new equal access obligations for cellular is particularly troubling. Cellular companies will be severely disadvantaged if they are prohibited from offering innovative services unrestricted by regulatory boundaries, while

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[13]AirTouch's decision to offer "1+" dialing on its systems is based upon its assessment of consumer demand in its markets. Other cellular carriers, particularly smaller ones, will have different cost/benefit trade-offs to make in installing new equal access software to accommodate 1+ dialing. See, e.g., Opposition to Petition for Rulemaking et al, RM 8012, September 2, 1994 at 9-13. The Commission should accommodate such differences among carriers in a competitive industry by adopting rules which meet the legislative requirements with the minimum harm to consumers.

[14]In a 1994 survey, only 1 of 141 cellular phones did not have speed dialing capability. Datapro, Communications Series, May 1994, at 27.

[15]See Omnibus Budget Reconciliation Act of 1993, Pub., L. No. 103-66 (1993); H.R. Rep. 103-213, 103rd Cong., 1st Sess. 494 (1993).

[16]"[W]e believe these obligations to be in the public interest because equal access would. . . foster regulatory parity between wireline and wireless services." NPRM/NOI at Para. 3.

numerous new ESMR and PCS competitors are free to respond to consumer demand for greater mobility and coverage. Fair competition can only proceed where similar services are subject to similar rules.

While it is true that BOC-affiliated cellular companies continue to have MFJ restrictions not presently imposed on cellular carriers generally, the answer is not to spread the inefficiencies, but to advocate for their repeal. The unique characteristics of the AT&T/McCaw proposed merger which led to the proposed consent decree should also not set precedents for the entire cellular industry.[17] AT&T's dominance in long distance raises concerns not relevant to the cellular industry generally.

D. Cellular carrier freedom to contract with long distance carriers as market demands dictate promotes long distance competition.

Cellular carriers have no ability to impact the supply or price of long distance services generally. The Commission's premise that "1+" equal access obligations for cellular carriers are necessary to promote competition or create low prices and innovative services in long distance has not been demonstrated[18] "Cellular long distance" is not a separate market;[19] in fact the long distance carriers have fought to prevent it from becoming one. Cellular customers buy exactly the same long distance service that landline customers buy.[20] In light of the insignificant proportion of long distance traffic

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[17]See Stipulation of the Parties filed July 15, 1994, U.S. v. AT&T and McCaw, Civil Action No. 94-01555. In fact, that Stipulation specifically provides for relief from equal access requirements if such requirements are eliminated for the BOCs.

[18]NPRM/NOI at Paras. 31, 34.

[19]See MCI's Opposition to the Bell companies' Motions for Generic Wireless Waivers, Civil Action No. 82-0192, filed August 8, 1994 at 11. See also Comments of Amicus State of California in Support of Motion of Bell Companies for Modification of Section II of the Decree, filed August 9, 1994, at 17.

[20]Because there are no access charges paid by IXCs to cellular carriers, BOC cellular customers should be paying lower long distance charges. See Hausman Affidavit at 19-20, June 22, 1994, attached to Generic Wireless Waiver Request, U.S. v. Western Electric Civil Action no. 82-0192.

originated or terminated through cellular networks,[21] cellular carriers have no market power in the interexchange market. Based upon the lack of real competition in long distance prices to BOC cellular customers,[22] increased competition from cellular providers will likely result in lower prices and greater service innovations for consumers.

Long distance prohibitions and equal access obligations were originally imposed upon the Bell Companies because of a belief that the BOCs would leverage their monopoly in local service to increase prices in the separate long distance market, thus reducing consumer welfare. The incentives in the provision of cellular services are reversed. That is, cellular wireless providers promote usage of such ancillary services as information services, voice mail, and long distance to maximize usage of cellular airtime. This in turn "enhance[s] the usefulness of communications services and foster[s] increased network usage"[23] for cellular networks. Cellular carriers thus are more likely to reduce long distance prices than to increase them.[24]

Service offerings of non-BOC cellular licensees provide evidence of this downward pressure on long distance prices. Companies free from MFJ equal access requirements have negotiated discounts on long distance service rates by buying on behalf of all or most of their cellular subscribers.[25] These discounts vary from carrier to

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[21]Cellular interexchange service is less than one half of 1% of landline interexchange service in terms of minutes of use. See Motion of Bell Companies for a Modification of Section II filed June 21, 1994.

[22]U.S. v Western Electric, U.S. D.C. for the District of Columbia, Civil Action 82-1092, Hausman Affidavit, January 17, 1994.

[23]NPRM/NOI at Para. 37.

[24]Because cellular carriers' local airtime and access rates are largely unregulated by states and no where subject to cost-based regulation, there is also no incentive to "pad" the rates of local service with higher priced interexchange services.

[25]Non-BOC cellular carriers also provide interexchange services directly within their "clusters" using their

carrier and are offered competitively, based upon the duration of the contract, call minute volumes, interconnection arrangements and other factors. These bulk discounts range from 25% to 40% less than long distance retail rates available to individual subscribers.

These negotiated rates have translated into direct savings for cellular subscribers, as supported by the record in this and other proceedings.[26] To encourage airtime usage during off-peak times, carriers offer such enticements as "free unlimited long distance calling during weekends."[27] Others carriers have established wide-area plans within a cluster of cellular systems, enabling subscribers to pay a single per minute rate for calls within the wide area that is lower than separate air time and toll charges.[28] "Bucket" plans have also been developed, "which integrate local and long distance service to users in particular areas and offer extended -- even nationwide -- service at fixed rates."[29] Equal access would curtail the freedom of cellular companies to negotiate with the IXCs in order to create the best service packages to attract and retain customers. In other words, traditional "1+" equal access requirements imposed on all cellular carriers will result in higher rates and fewer choices for customers.

E. Equal access obligations, which require regulatorily defined "local" serving areas, reduce market responsiveness and engineering efficiencies.

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own microwave facilities, rather than relying exclusively on resale. Higgins & Miller Affidavit at 11, attached to RM 8012 Comments of Americtech, BellsSouth Corp, Nynex Corp, Pacific Telesis Group, and US West, iNc.. ("Higgins and Miller Affidavit").

[26]See Higgins & Miller Affidavit at Exhibit 3 indicating that in a survey of all cellular carriers in the top 120 MSAs where neither facilities-based operator is affiliated with a BOC, the majority (67%) pass the bulk wholesale cost savings on to customers.

[27]RM-8012, Comcast Comments at 7.

[28]RM-8012, GTE Reply Comments at 6; RM-8012, Unity Comments at 5.

[29]RM-8012, McCaw Comments at 9.

As a consequence of imposing "1+" equal access obligations, the Commission must select an appropriate local serving area. Thus the Notice requests comment upon adoption of MTAs as the local service area or adoption of local service areas tied to the license area of a service provider.[30] By substituting its judgment for the more direct, efficient and flexible influence of market factors, the Commission will inhibit the development of service areas based upon customer choice.

While AirTouch supports adoption of MTAs as the least intrusive boundaries proposed, the adoption of any boundary line at which calls must be automatically handed off to a presubscribed long distance carrier will trigger an immediate flood of waiver requests to the Commission to resolve particular market needs, such as where MTA boundaries bisect cellular clusters.[31] The burden on the District Court overseeing MFJ enforcement for such matters has been substantial, and the costs and delays for the BOC cellular companies well documented.[32] The importance of having flexibility regarding local calling areas is especially great because system coverage is consistently cited by customers as a key factor in selecting a mobile service provider. In light of the dramatic influx of new CMRS competitors, for whom the Commission proposes no similar local/long distance divisions, there will be an even greater likelihood of waiver requests to meet competitive offerings which reflect the rapidly changing market-driven boundaries.

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[30]However, See Cellular Communications Systems, 86 FCC 2d 469, 502, (1981), in which the Commission recognized that LATA boundaries have no relevance in radio services.

[31]For example, AirTouch through its New Par joint venture provides cellular service to contiguous MSA/RSAs serving much of Ohio and Michigan. Yet Columbus, Cleveland, and Detroit are all located in separate MTAs. Strict enforcement of MTA boundaries would inhibit provision of optimal wide-area calling for these subscribers. The problem of regulatory lag would be ongoing, e.g., entrance a new ESMR competitor offering flat-rate calling throughout the mid-West could lead to our amending a waiver request for expanded serving area boundaries before the original request had been processed. Equal access rules would therefore, materially diminish competitive discipline in the markets.

[32]See Motion of Bell Companies for a Modification of Section II, filed June 21, 1994 at 42.

The MFJ court's experience with the application of equal access rules to mobile services underscores the problems ahead for the Commission in crafting rules for mobile services. Calls in progress may cross serving area boundaries, transforming local calls into long distance calls. A temporary waiver, due to expire in September, 1995, was needed to prevent the need to transfer calls to a long distance company during on-going calls. Without such a waiver, on-going calls are likely to be dropped during the call hand-off process. At a minimum, if the Commission imposes "1+" equal access on cellular providers it should permanently exempt intersystem hand-off from the rules to alleviate inefficient delays and disconnections.

F. Imposing "1+" equal access obligations on all cellular service providers will artificially restrict competition and create technical inefficiencies in the provision of new services and applications.

The dynamic state of the CMRS industry will create numerous problems for the Commission in trying to stay ahead of industry developments. Three unrelated market developments exemplify the changes taking place within the cellular industry which strongly demonstrate why new geography-based restrictions should not be adopted.

1. CDPD

Cellular data services, still in their earliest stages of development, provide an example of how equal access rules will inhibit innovation and efficiency.[33] Cellular Digital Packet Data ("CDPD") enables and enhances communications between end-systems utilizing the Internet Protocol ("IP") and Connectionless Network Protocol ("CLNP") to transport data across cellular and various packet data networks. Unlike the

[33]NPRM/NOI at Para. 76.

North American Numbering Plan for telephone numbers, IP and CLNP addresses are assigned without geographic significance, as they were originally developed for the Defense Department which required confidentiality at the point of origination for security reasons. The lack of a geographic address makes it difficult -- if not completely impractical -- to determine and engineer rules for crossing geographic LATA boundaries.

In the "connectionless" CDPD environment, the ability to initially route a packet to a particular IXC is technically possible, but if that is done there is no assurance that the packet will reach its destination via a predetermined IXC. The cellular carrier can only control the first transmission. Once a call is handed off, the cellular carrier has no ability to control its travel across other interconnected data networks. Under normal conditions, it is not possible to use a single vendor for delivery, since there is no guarantee that an end point is on the same network as the originator.

If equal access were to be required, efficiencies would be lost. Currently, packets search for and follow the path of least resistance and are transported quickly and efficiently. With equal access, however, a packet may have to wait for the availability of the designated path. This would substantially lower performance and defeat the efficiency objectives to fill all available transmission paths. Efficiency will be further hindered if data needs to take circular paths to reach the intended destination. Delivery delays may cause re-transmits which in turn, results in incurring excessive additional costs. Furthermore, costs to the end user would increase because of the need for the additional routers, ports, switches, connections and leased lines. Presumably, these reasons were the basis for the Department of Justice exempting AT&T/McCaw's wireless

data services from the equal access requirements set forth in the proposed consent decree.[34]

2. 500 Service

Cellular carriers have applied for newly assigned 500 SACs to implement a variety of nongeographic "one-number" services. These 500 services have yet to be designed, but cellular carrier may choose to offer such services, at least initially, in partnership with particular interexchange carriers in order to meet LEC requirements for Feature Group D interconnection. Customer preselection of a long distance carrier may either be impossible to implement or highly inefficient to route, thus inhibiting cellular carriers from full participation in new competitive applications such as 500.

3. Mobile Satellite Services

Equal access regulations would be completely unworkable for mobile satellite services, which are inherently designed to serve broad geographic boundaries, and would be otherwise uneconomic. Their imminent entry into the market, however, raises new dynamics in the division between local and local distance services. LEO licensing is expected to begin in late 1994. AMSC expects to begin operation in 1995. New proposals, such as those by Teledesic, Celsat, and others, are introduced on a continuing basis.

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[34]United States v. AT&T Corp. and McCaw Cellular Communications, Inc., No. 94-1555 (D.D.C. filed July 15, 1994.)

The actual role for these services in the CMRS marketplace has yet to be established. Due to existing capacity issues, cost considerations, and market factors, it is expected that mobile satellite services will provide complementary services to terrestrial CMRS by enabling subscribers to obtain coverage in areas where terrestrial service is not or cannot be economically offered. Dual-mode phones are expected to be designed which will automatically flip from a terrestrial to a satellite system depending upon the call. The result for the customer is more reliable service, seamless global coverage, and enhanced mobility.

Marketplace demand will ultimately determine which technology, strategy, and industry structure works best. One possibility is the formation of competing alliances between terrestrial and mobile satellite partners, combining the strengths of the two services into a cohesive package. Under such a scenario, end users would automatically select a long distance carrier (i.e., the MSS provider) in choosing a particular terrestrial mobile service. Equal access obligations which force customers to separately preselect an IXC would impede the value of such alliances and curtail efficient evolution of the mobile services industry.

Examples such as CDPD, 500 service, and mobile satellite developments are merely the tip of the iceberg of features and applications yet to be introduced in the rapidly growing wireless industry, with the imminent licensing of numerous additional facilities-based competitors in each market. To stay competitive, carriers will be required to expand their seamless coverage, facilitate nationwide roaming, and interconnect to other networks for maximum flexibility, range and efficiency. Overly restrictive equal access obligations, designed for a bottleneck problem which does not exist, are precisely the kind of outmoded regulatory prescriptions which will hamper the full potential of this market.

G. The greatest costs of "1+" equal access implementation are on the marketing end, where they create the greatest impediments to a fully competitive market.

Significant costs will also be incurred in the transitioning to "1+" equal access for systems which have never been subject to equal access obligations. In December, 1986 AirTouch (then PacTel) acquired interests in five cellular partnerships in Michigan and Ohio which had not been bound by the MFJ restrictions and did not offer equal access. Six cell sites were reconfigured to avoid any interLATA service provision and to ensure equal access hand-off of interLATA calls. The following modifications were made: software changes were installed in the switch; arrangements for access interconnection were made through Michigan Bell and Ohio Bell; billing arrangements were established; customer order entry software was modified; customer service training was conducted; and customers were balloted.

Of these steps, customer balloting is by far the most time-consuming and costly to maintain. It is also of apparently limited value to customers. As noted above, AirTouch intends to provide "1+" interconnection that is equal in type, quality, and price to all interexchange providers for whom customers express a preference. The forced choice and default allocations required by the MFJ's equal access balloting requirements, however, protect inefficient long distance competitors and undermine innovative discount plans that interexchange companies may offer cellular licensees who sign up all or most of their customers.

An overview of the choices made by AirTouch cellular customers which were made subject to the equal access rules imposed on it prior to April, 1994 indicates that in its four markets, over 99% of its subscribers chose AT&T, Sprint or MCI. The remaining fraction of a percent was dispersed among fifteen carriers, five of whom attracted fewer

than 50 customers each. Yet, in order to make this field of 18 (and growing) available to new subscribers so that customers can make their choice, numerous administrative steps had to be taken on an ongoing basis: for each carrier added, application forms have to be reprinted, collateral materials distributed, and sales, customer service and billing personnel informed. Additionally, all avenues of distribution are affected because agents, dealers, and resellers must be kept up-to-date.

As discussed above with regard to AirTouch market research,[35] cellular's strong reluctance to incur "1+" equal access obligations is based upon the lack of consumer demand for this menu-driven selection process. As argued elsewhere in the record, the lack of equal access offerings by competitors to BOC-cellular companies indicate that there is no material value to consumers in having a separate choice of long distance carriers forced upon them.[36] Nor to our knowledge are any cellular resellers offering equal access today.[37] Clearly, equal access as defined by presubscription is not warranted by customer demand.

H. Whatever the Commission's final decision regarding equal access obligations, bundling of long distance and wireless services should be permitted as pro-consumer and pro-competitive.

The Commission has requested comments on the benefits of providing vertically integrated (or bundled) cellular and long distance services.[38] As discussed in section IC. above, there is widespread evidence of price reductions for consumers through the availability of wide-area plans in which long distance charges which would otherwise be

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[35]See Section I.A.

[36]RM 8012, SNET Comments at footnote 3.

[37]U.S. v. Western Electric, Civil Action No. 82-0192, Hausman Affidavit dated July 29, 1992 at 28.

[38]NPRM/NOI at Para. 41.

separately imposed on the customer are absorbed by the cellular carrier.[39] Competition between cellular carriers is enhanced because the lower prices and seamless coverage resulting from the combined offerings provide key sources of product differentiation in the market. Competition among IXCs is enhanced as each provider competes for the ability to serve a cellular carrier's subscribers through steeper discounts and other features.

The rate reductions which flow from these bundled offerings stimulate market demand and promote more rapid market development. Benefits including a single point of contact and a single bill are valued by customers who seek the convenience and efficiency of "one-stop shopping". AirTouch strongly urges the Commission to permit service packages as a valuable pricing tool which directly benefits consumers through more choices and lower rates.

I. Imposition of equal access obligations on paging and narrowband PCS services would be contrary to the public interest.

Consistent with the Commission's discussion in Paragraph 47 of the NPRM/NOI regarding the design and pricing of paging services, extension of equal access burdens to paging or narrowband PCS service providers would not provide any consumer benefits. The narrowband messaging industry is a highly competitive one, characterized by rapid growth, open entry and intense price competition. Advanced applications including digitized voice messaging, high speed data services, facsimiles, graphics images and limited motion video are all under development today, underscoring the pace of technical and service innovation. The existence of blanket interLATA and equal access MFJ waivers for paging services had no negative effect on competition.[40]

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[39]GTE, for example, recently rolled out its Northern California plan which advertises no toll charges for calls made from the Oregon border to south of Monterey.

[40]Under the 800 access waiver obtained in 1993, Bell-affiliated paging companies were free offer 800